

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 100177 / May 20, 2024

Admin. Proc. File No. 3-21933

In the Matter of the Application of
NYPPEX, LLC and LAURENCE ALLEN
For Review of Disciplinary Action Taken by
FINRA

ORDER DENYING REQUEST FOR A STAY

On May 7, 2024, NYPPEX, LLC (“NYPPEX”) and Laurence Allen filed an application for review from a FINRA disciplinary action finding that they violated Article III, Section 3(b) of FINRA’s By-Laws and FINRA Rules 8311, 8210, 2210(e), and 2010.¹ For their misconduct, FINRA suspended NYPPEX for one year, barred Allen from associating with any member firm in any capacity, and fined both Allen and NYPPEX. The last sentence of the application for review requests, without elaboration, that the “Commission stay the effect of [Allen’s] bar during the pendency of its review.” We deny the request on two independent bases.

First, the request is procedurally improper because Rule of Practice 401(a) requires requests for stays to be made by “written motion, filed pursuant to [Rule of Practice] 154.”² Rule of Practice 154(a) in turn requires that motions “state with particularity the grounds therefor” and be “accompanied by a written brief of the points and authorities relied upon.”³ Thus, as the Commission has previously explained, requests for stays should be made in a “standalone document complying with Rule of Practice 154 . . . instead of incorporating the request in another filing.”⁴ The standalone-motion requirement serves important purposes, including placing other parties on notice that a stay has been sought (and of the corresponding

¹ *Dep’t of Enf’t v. NYPPEX, LLC*, Complaint No. 2019064813801, 2024 WL 1652503 (NAC April 8, 2024).

² 17 C.F.R. § 201.401(a).

³ 17 C.F.R. § 201.154(a).

⁴ *Donald S. LaGuardia, Jr.*, Advisers Act Release No. 6371, 2023 WL 5089862, at *1 n.4 (Aug. 8, 2023); *see also Mark W. Hecke*, Exchange Act Release No. 97233, 2023 WL 2732944, at *1 n.6 (Mar. 31, 2023).

need to file an opposition), as well as alerting the Commission of a request for relief. Here, Allen requested a stay within his application for review, without either identifying his motion in that document's title or including a brief of the points and authorities relied upon.

Second, even if the stay request were properly before the Commission, Allen has not met his burden for justifying a stay. A stay pending appeal is an “extraordinary remedy,” and the movant bears the burden of establishing that relief is warranted.⁵ In determining whether to grant a stay, the Commission considers whether (i) there is a strong likelihood that the movant will eventually succeed on the merits of the appeal; (ii) the movant will suffer irreparable harm without a stay; (iii) no other person will suffer substantial harm as a result of a stay; and (iv) a stay is likely to serve the public interest.⁶ Although the application for review states that FINRA erred in various respects, it identifies neither record support nor legal authority for the claimed errors. These conclusory and undeveloped assertions are not sufficient to establish the requisite likelihood of success.⁷ And Allen does not identify or address the other three factors that bear on the appropriateness of a stay.⁸ In short, Allen “failed to provide [the Commission] with adequate grounds for the issuance of a stay” and his request “represents the mere skeleton, if that much, of a proper motion for a stay.”⁹

Accordingly, IT IS ORDERED that Allen's request for a stay is denied.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

⁵ *Bloomberg L.P.*, Exchange Act Release No. 83755, 2018 WL 3640780, at *7 (July 31, 2018) (quoting *Nken v. Holder*, 556 U.S. 418, 432–34 (2009)); *accord Alpine Sec. Corp.*, Exchange Act Release No. 87599, 2019 WL 6251313, at *5 & n.51 (Nov. 22, 2019).

⁶ *E.g.*, *Bruce Zipper*, Exchange Act Release No. 82158, 2017 WL 5712555, at *3 (Nov. 27, 2017).

⁷ *See Laurence G. Allen*, Exchange Act Release No. 96391, 2022 WL 17335913, at *5 (Nov. 28, 2022) (concluding that “generalized claims of error” with respect to the decision under review “are insufficient to establish that a stay is warranted” (quoting *Robbi J. Jones*, Exchange Act Release No. 91045, 2021 WL 396767, at *3 (Feb. 2, 2021))); *Jones*, 2021 WL 396767, at *3 (concluding that allegations of error “without citing to the record or any supporting authority” were “generalized claims of error”).

⁸ *See Gen. Carbon Co. v. OSHA*, 854 F.2d 1329, 1329-30 (D.C. Cir. 1988) (per curiam) (denying request for stay where motion “consisted of two sentences,” merely asserted that the applicant had a good faith belief that it would succeed on appeal, and “fail[ed] completely to address” two of the stay factors).

⁹ *Id.* at 1329.